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OFFICE OF PETITIONS

In re Application of
Francis M. Carlson
Application No. 10/789,974
Filed: February 28, 2004
Attorney Docket No. YATES-CDR-US-NPROV

ON PETITION

This is a decision on the petition, filed on May 14, 2007, requesting that the requirement of 37 CFR 1.97(i) be waived or suspended pursuant to 37 CFR 1.183 in order that the Information Disclosure Statement (IDS) filed concurrently with the instant petition and references cited therein be considered in the above-identified application.

The petition is **DISMISSED as MOOT.**

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. 37 CFR 1.97 states in the relevant portion that an IDS shall be considered by the Office if filed by the applicant after the period specified in 37 CFR 1.97(c), provided that the IDS is filed on or before payment of the issue fee and is accompanied by: (1) The statement specified in 37 CFR 1.97 (e); and (2) the fee set forth in § 1.17(p). In the instant application, the IDS in question was filed on May 14, 2007 while the issue fee was paid on March 1, 2007. As the IDS was filed after the payment of the issue fee, in accordance with 37 CFR 1.97(i), the IDS would have been placed in the file but would not have been considered by the Office. Applicant is seeking to have this requirement of 37 CFR 1.97(i) waived or suspended pursuant to 37 CFR 1.183.

Unfortunately, the instant petition was filed a day before the issue date of the application and the issuance of the patent has rendered the instant petition moot. It is noted that the applicant was apprised of the May 15, 2007 issue date in the Issue Notification mailed to the applicant on April 25, 2007.

Telephone inquiries regarding this communication should be directed to Ramesh Krishnamurthy at (571) 272-4914.

As authorized, a petition fee of \$400 has been charged to the Credit Card.

A handwritten signature in black ink, appearing to read 'David Bucci', is written over the printed name.

David Bucci
Petitions Examiner
Office of Petitions